THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.11543 of 2007

Date:07.06.2007

Between

R.K.Jain.

----------Petitioner

And

Transmission Cooperation of A.P.Limited and others.

----------Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.11543 of 2007

ORDER:

The petitioner is a domestic consumer of electricity through Service Connection No.B1-12 LT Category-I at Khairatabad, Hyderabad. He was issued a notice of provisional assessment, dated 28.12.2004, pointing out that in the inspection caused on 14.12.2004, certain irregularities were noticed, and the tentative value of the power so pilfered is Rs.93,119/-. He was required to pay half of that amount for restoration of power supply.

The petitioner filed W.P.No.25135 of 2004 challenging the notice of provisional assessment. The writ petition was disposed of, at the admission stage, on 31.12.2004, directing continuance of power supply to the petitioner, till an order of final assessment is passed.

The Divisional Engineer, Assessments, third respondent herein passed an order of final assessment dated 28.02.2007, observing that the petitioner is liable to pay a sum of Rs.55,777/- towards the estimated consumption charges for the power, that was found to have been pilfered. The same is challenged in this writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The interference with an order of final assessment by this Court is almost uncommon, except where it suffers from procedural irregularities or serious infirmities evident from the record. On receipt of the notice of provisional assessment, the petitioner submitted a detailed representation dated 31.03.2005. Apart from denying the allegations made against him, the petitioner pointed out that the assessment period cannot be for the entire year and for domestic power supply, it is only three months under Section 126 of the Electricity Act. However, in the impugned order, the third respondent did not make any reference to the representation at all, much less, discussed the points urged by the petitioner. For all practical purposes, the opportunity given to the petitioner to submit the representation was reduced to an empty

formality. On this short ground, the impugned order is liable to be set aside.

Hence, the Writ Petition is allowed and the impugned order is set aside. The third respondent is directed to pass a fresh order, duly taking into account, the points urged by the petitioner in the representation, dated 31.03.2005. There shall be no order as to costs.

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07.06.2007

Note: Issue operative portion of the order by wire at party's costs.

(B/o)

JSU